

Jim Verner
70 Calla Lily Court
Reno, Nevada 89511
Phone (775) 853-0373<>E-mail:jimbovbv@aol.com

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2018 APR 27 PM 3:02

April 27, 2018

Objection Reviewing Officer
Intermountain Region USFS
324 25th Street
Ogden, UT 84401

Re: Objection to the draft Decision, ELGA Transfer #52446

Dear Sir or Madam:

Enclosed for your review is my objection to the Draft Decision Notice to convey this Forest service parcel.

Please feel free to contact me if additional information is needed.

Sincerely,



Jim Verner

OBJECTION

To the Draft Decision Notice for the

Educational Land Grant Act Transfer of National Forest
System Land to Washoe County School District #52446

April 27, 2018

As a nearby resident I have closely monitored the happenings related to the proposed conveyance for over seven months, have spent hundreds of hours in research, and have met personally with numerous individuals, including officials from the Forest Service (FS) and the Washoe County School District (WCSD). I have attended both public meetings and have offered timely written comments during all the offered scoping periods. I am also the de facto communicator for approximately 25 families living in the vicinity. I think I am fully qualified to comment on and make objections to the recently offered Draft Decision Notice.

A few of my specific objections to the Draft Decision and also to the conduct of the local Forest Service are shown in the following paragraphs. I could offer many more. I have tried to deal exclusively with FS matters here, but the two agencies are so intertwined in this project that it is almost impossible to exclude all references to the WCSD. Also, the objections are mutually dependent, so they cannot be viewed as separate entities. *All my assertions are supported by written documentation, and all the documents are available on demand in electronic format.*

1. The supposed final Environmental Assessment (EA) associated with the proposed conveyance is dated March 19, 2018, and the public was first made aware of the availability of this document on March 29 – the same day the Forest Supervisor's subject Draft Decision Notice was released. This 37 page assessment forms an integral part of the total application procedure and was heavily relied upon by the Forest Supervisor during the decision-making process. This reliance is referenced by the Forest Supervisor in the second paragraph under Proposed Decision on page 1 of the Draft Decision.

However, the public has not yet been given the opportunity to review and comment upon the final EA. We did get a chance to review and comment upon a preliminary EA back in February, but the final EA is a different animal altogether, and *it certainly should be subjected to public scrutiny before being utilized in any decision-making process.* I **suggest the decision to convey be postponed until such time as the final EA has undergone a 30 – 45 day public scoping comment period.**

2. Despite the repeated assertions by the FS that the WCSD ELGA application has met the criteria outlined in the Act in Section 202(a), Authority to Convey, that is simply not factual. The Applicant chose not to specifically address the criteria within the application, but rather presented broad unsubstantiated claims, vague statements about what they intended to accomplish, and considerable, often out of date, boilerplate. *It is the FS itself that assessed all this information and decided, with uncharacteristic speed, that the ELGA criteria had been met.* I would challenge this position and submit that the criteria detailed in subsections 202(a) (4), (5), and (6) of the Act have not been met or even, in some cases, addressed, and in my view these are the key elements in the application. *Once the application had been accepted as presented, all future FS writings which included the Act criteria simply omitted the above three subsections, giving the appearance that all was in order.* A good example of this subterfuge is shown at the bottom of page 1 of the Draft Decision under Reasons for the Proposed Decision where all three criteria have simply vanished.

The Act clearly requires that the FS make judgments pertaining to the criteria expressed in the above-referenced 202(a) subsections. That is, has the applicant (4) offered sufficient factual data to justify the requested acreage, (5) submitted a detailed plan that is reasonable, and (6) secured the necessary authorization and financing to implement the proposed plan? The FS has a responsibility to review the submittal in detail and exercise due diligence to make sure these criteria have been met and that the assertions made within the application were reasonable and truthful. As explained in the following paragraph, the FS fell woefully short in fulfilling this responsibility.

In actuality, it is easy to see why the FS prefers to keep the three 202(a) subsections invisible, once the actual facts are exposed. The WCSD has coveted this parcel for decades, and they want the entire 60+ acres. *Knowing that the 20-30 acres they felt they needed for the proposed middle school would not justify conveyance of the entire parcel, they fabricated two additional bogus facilities and submitted them as a part of the application. These two facilities, which accounted for over fifty percent of the proposed project costs, were neither authorized nor budgeted by the Legislature – they were simply dreamed up and added to fill space.* I have incontrovertible evidence of this fact in the form of an email communication from a WCSD official, explaining in great detail that the plan was devised solely to circumvent the requirements of the law. *The email then went on to allege that the Forest Service was complicit in this plan and might have actually initiated it.* Because of the submittal of this fraudulent application by the WCSD and the alleged collusion of the FS, we have filed criminal complaints with the Federal Bureau of Investigation and the Nevada Attorney General's Office. **I suggest the decision to convey be postponed until a determination is made as to whether or not investigations will be launched and/or charges filed against either or both agencies. Additionally, whether or not action is undertaken by state and federal**

law enforcement, the FS should demand a revised Application and Plan of Development from the Applicant that meet all the criteria expressed in ELGA before considering the decision to convey.

3. At some point in time between the Forest Service's Sep 12 and Feb 13 letters, the only ones we have received, there occurred within the FS a significant shift in public policy. Originally they showed interest in and in fact welcomed public comments on any aspect of the proposed conveyance. In point of fact, the Sep 12 letter stated "...we would like to invite your comments regarding issues, opportunities, concerns, and suggestions for the proposed project." There are no stated or implied restrictions there, and numerous public comments, accepted and reported by the FS, dealt with school layout, ingress and egress, noise and lighting, fire safety and other design details. *Lately, however they have rather forcefully declared orally and in print that they now have no interest whatsoever in what goes on inside the boundaries of the proposed conveyance.* "The FS does NOT determine how the campus would be built..." and "The FS does not decide the size, type, configuration, or any other details about the facilities to be built by the WCSD once the land is conveyed." *In short, their new position is that the WCSD can build what they want, where they want it, and when they want to, as long as it has something to do with schools.* Also, the conveyance itself seems to be a foregone conclusion. I am disturbed by this attempt to shirk a mandated responsibility, and I categorically reject this stance for the following two reasons:

First of all, both the Forest Service Handbook (FSH) guidelines and the ELGA criteria require that the FS review the proposed physical plant as a part of the application procedure. FSH Guideline #8 calls for "...the types of facilities that will be considered and their location, proposed access, utility routes, environmental controls during construction..." while ELGA Criterion #5 states the requirement that the land be used for a "...project that is described in detail in the application." Nobody is claiming that the FS is to determine how the campus is to be built or to decide what the layout is to be, but the law insists that they review and evaluate all these details – the size and location of buildings, roads, access points, and other physical facilities – that were submitted as part of the application procedure. Where else would this responsibility lie?

Secondly, numerous indexed studies required by the Environmental Assessment, carried out by or under the guidance of the FS, *could not have been undertaken without the knowledge of where the buildings, roads, parking lots, and athletic fields will be located.* To name a few: Heritage Resources, Traffic and Transportation, Public Access and Recreation, Noise and Lighting, and Visual Resources. How can you assess the impact of the physical plant on the numerous archaeological loci on the parcel if you do not know where the buildings and roads are located? How can you make a judgment about internal and external traffic flow if you not know the location of the internal roads and access points? How can you gauge the effects of internally generated noise and

light if you are ignorant of the siting of the buildings, the roads, the athletic fields, and the access points? How can you determine the scope of visual impairment to the adjoining properties if you do not know where the buildings will be, or their size and height? The answer is you cannot. No matter how convenient it would be for the FS to do so, this responsibility cannot and should not be abrogated. **I suggest that the decision to convey should be postponed until the FS revisits the revised final Application and POD, including the final facilities map, from the WCSD and revisits the EA, keeping in mind their responsibility to involve themselves with the design details of the proposed project.**

4. It has recently come to light, via a local newspaper article on March 29, that a seismic study conducted on the subject property has located a number of fault lines that would have a profound effect on the proposed project and could possibly kill it altogether. *A small WCSD map published with the article shows a totally different layout of middle school buildings, roads, access points, parking lots, and athletic fields from those shown on all the documentation offered to date.* In my opinion such a significant change would necessitate that the WCSD prepare a revised Plan of Development (POD) and submit it to the FS as part of an updated application. Also, moving and altering all these physical features would surely necessitate another look at the March 29 Environmental Assessment, because all those indexed studies mentioned above (Heritage Resources, Traffic and Transportation, etc.) would have to be revisited. In addition, the new layout would largely negate the traffic study and the grading plan, both of which are keyed to the original site configuration.

Neither the seismic study map nor the revised layout map has been made public by the WCSD or considered by the FS, and the WCSD is now claiming that they cannot get permission to trench the property to obtain more detailed data pertaining to the faults. This is a huge safety issue of interest to the general public and especially to the parents of the 1400 children who would be attending the proposed middle school on this site. Yet, this whole potential earthquake issue is being kept under wraps and was only exposed because a reporter happened to be present at a District meeting. **I suggest the decision to convey be postponed until such time as a thorough seismic study has been completed and that a new Plan of Development, including a revised facilities map, has been submitted to and accepted by the FS. Moreover, because of the obvious safety issues involved in building a school in a seismically sensitive zone, the public needs to be apprised of the situation and allowed a suitable scoping comment period.**

5. The public communications attempts, both oral and written, carried out by the Forest Service throughout this procedure have been untimely, poorly thought out, and riddled with errors and contradictions. The first FS letter sent out, dated September 12, 2018,

contained several unexplained terms, failed to adequately define the scoping period, and presented a befuddling explanation of 36 CFR 218. It was mailed to a limited number of families supposedly living near the proposed project and to entities that might be affected by the proposed project. The list contained 95 addresses and was hopelessly out of date, contained numerous duplications, and was missing a number of important entities. *Half the people on the most affected street received no notification.* I immediately notified the FS and the WCSD of the faulty list, but no additional letters were mailed. No one from the FS has been willing to tell me where the list originated or if there are statutory requirements pertaining to mailings of this type.

Then on February 5, 2018 the FS sent out another letter, *astoundingly using the exact same defective mailing list they had used in September!* I notified the WCSD of this fact, since they pay for and physically send out the mails, and this action caused the FS to send out a new mailing on February 13. The revised mailing list they used was better, but far from perfect. This second letter informed us that a preliminary EA with an accompanying revised POD was available on line for our review. As before, an undefined 30 day scoping period was offered and another more detailed and more confusing explanation of 36 CFR 18 was presented. I think it is safe to say that none of us had a clue as to how we were to satisfy the CFR requirements. The letter also notified us of an upcoming open house forum sponsored by the FS and designed to discuss the preliminary EA and the upcoming FS decision to be made.

The meeting was held on February 22 and was presided over by the District Ranger. There was no agenda, many attendees did not even know who the speaker was, and none of the FS or WCSD representatives were introduced. Apparently she had planned to speak from a handout, but it did not arrive so she had to wing it. She did not mention anything definitive about the EA or the upcoming decision, and she was bewildered by most of the questions. The question of 36 CFR 218, that has confused all of us since the beginning, was not even addressed. Virtually no useful information was dispensed, and as a whole the meeting was an unmitigated disaster and waste of time.

The above paragraphs demonstrate that the Forest Service has done a terrible job in fulfilling its public communication requirements pertaining to this proposed conveyance. Numerous families and entities that should have been informed have not been informed and remain in the dark to this day. A very small amount of factual, useful information has actually been dispensed, but there is a large body of false and contradictory data in the hands of the public. That fact has produced controversy and confusion where none need exist. **I suggest that, because of the dearth of information that has been made available to the affected parties, the requirements of 36 CFR 218 be waived and that all comments submitted to the Reviewing Officer in Ogden before the May 14 deadline be accepted, without the stipulation that they be dependent upon earlier comments and suggestions or the absence thereof.**

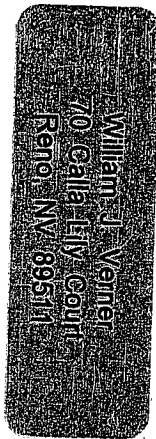
As an American citizen I feel that the land being considered for transfer to the WCSD belongs in part to me, and that the Forest Service has been designated by Congress to assume stewardship over this acreage. The dictionary definition of stewardship is "The careful and responsible management of something entrusted to one's care." As stewards I expect the FS to protect my interests in this land and act as my advocate in any proceedings that pertain to this land. If any questions or doubts arise with respect to these proceedings, the FS should err on the side of caution and in favor of the current public owners.

Yet, the FS has not taken this stance here, and in actuality they have become advocates for the WCSD. Throughout the entire process they have sided with the WCSD to get the entire 60+ acres conveyed as soon as possible. In their writings they have often spoken of the transfer as a foregone conclusion – not if, but when - and they have even listed a number of thinly veiled negative impacts on the neighborhood, should the transfer not take place. The documents they produce often include WCSD opinions as their own. In my view they have violated both the spirit and the letter of ELGA on numerous occasions, and even when they have followed the law, they have done so in a perfunctory manner, merely scraping along. These actions support the perception held by those of us who have spent time on this issue – namely that these two agencies have secretly colluded for over two years to effect this transfer and that it has been a done deal from the getgo.

Any of the five objections voiced above would offer sufficient cause to delay the draft decision to convey. Taken collectively, I think they provide strong evidence that our local Forest Service office needs to sit back and reflect upon the issue as a whole. Yet, both the FS and the WCSD are racing down the road to a conveyance, and the WCSD has already filed a special use permit with the county, using a new building and road configuration the public has not even seen. At this point, conveyance would mean turning over full control of the 60+ acre parcel to the WCSD – an agency which has to date offered no coherent plan nor justified the transfer of even a single acre. If title is transferred, the District will then be able to do whatever they please with the parcel, whenever they choose to do it, and there will be no chance whatsoever that the land will revert back to public use. This is exactly the situation they have dreamed of for two years, but I hardly think this was the type of outcome the ELGA framers had in mind.

Delaying the process is distasteful to all of us who are desirous of having a new middle school on the site, but it is not fatal. I think we all would much rather have a well-planned school on a piece of legally transferred property than a poorly designed disaster on a parcel lying under a cloud of future legal action. Hopefully, your office will take a less prejudiced and more objective view of this entire procedure.

Jim Verner



RENO, NV
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